

1                                    **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2       In the Matter of the Mortgage Banker License of:    No. 06F-BD045-BNK

3       **NV MORTGAGE, INC., DBA SOMA**  
4       **FINANCIAL AND J. DALE AMOS,**  
5       **PRESIDENT**  
6       871 Coronado Center Drive # 110  
7       Henderson, NV 89052

**CONSENT ORDER**

6                                    Petitioners.

8           On April 20, 2006, the Arizona Department of Financial Institutions ("Department") issued a  
9       Notice of Hearing alleging that Petitioners had violated Arizona law.    Wishing to resolve this matter  
10      in lieu of an administrative hearing, and without admitting liability Petitioners do not contest the  
11      following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

12                                    **FINDINGS OF FACT**

13           1.        Petitioner NV Mortgage, Inc. dba Soma Financial ("Soma Financial") is a Nevada  
14      corporation that is not authorized to transact business in Arizona as a mortgage banker within the  
15      meaning of A.R.S. § 6-941 *et seq.* The nature of Soma Financial's business is that of making,  
16      negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan secured by  
17      Arizona real property within the meaning of A.R.S. § 6-941(5).

18           2.        Petitioner J. Dale Amos ("Mr. Amos") is the President of Soma Financial and is not  
19      authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S.  
20      §§ 6-941(5) and 6-943(F).

21           3.        Soma Financial and Mr. Amos are not exempt from licensure as a mortgage banker  
22      with the meaning of A.R.S. §§ 6-942 and 6-941(5).

23           4.        On July 9, 2003, the Department approved Soma Financial's application for licensure  
24      as a mortgage banker. In February 2005, the Department sent Soma Financial its annual mortgage  
25      banker license renewal package for the license year April 1, 2005 through March 31, 2006. The  
26      instructions in the renewal package disclosed to Soma Financial that "Licenses not renewed by

1 March 31 are suspended." In February 2005, the Department was notified by the insurer that Soma  
2 Financial's required surety bond coverage would be cancelled effective February 26, 2005. On  
3 February 9, 2005, the Department notified Soma Financial that there cannot be any lapse in bond  
4 coverage if they wish to maintain their license. On March 1, 2005, the Department served Soma  
5 Financial with an Order of Summary Suspension and Notice of Opportunity for Hearing (the  
6 "Order") for failing to maintain the required surety bond coverage. The Order stated that Soma  
7 Financial cannot make, negotiate, or offer to make or negotiate mortgage loans or mortgage banking  
8 loans for compensation in the State of Arizona without a license from this Department.

9 5. On October 24, 2005, the Department received a consumer complaint from a  
10 Buckeye, Arizona resident who alleged that Soma Financial committed fraud during the processing  
11 of her mortgage loan and she requested that Soma Financial refund the prepayment penalty and  
12 origination fees that she was assessed. The borrower stated that Soma Financial solicited her to  
13 refinance with them in early June 2005 and the loan in question closed on June 27, 2005.

14 6. Soma Financial's mortgage banker license was closed by the Department on May 2,  
15 2005 due to non-renewal. Despite its mortgage banker license being closed Soma Financial's  
16 internet web site [www.mysoma.com](http://www.mysoma.com) remains active and allows Arizona residents the opportunity to  
17 apply for new loans to purchase a home or to refinance their current residence. The Maricopa  
18 County recorder's web site currently lists several mortgage loans that identify Soma Financial as the  
19 lender; these loans closed after the Department closed Soma Financial's mortgage banking license on  
20 May 2, 2005.

21 7. On January 10, 2006, the Department mailed a letter to Soma Financial stating that  
22 they had reason to believe that Soma Financial was operating in Arizona without the benefit of a  
23 mortgage banker license. The Department gave Soma Financial an opportunity to respond by  
24 January 20, 2006.

25 8. On January 23, 2006, Soma Financial replied to the Department by stating that their  
26 mortgage banker license application was submitted to the Department on September 16, 2005 but a

1 variety of circumstances prevented them from completing the process. The Department did not  
2 receive Soma Financial's completed application until November 15, 2005. Soma Financial also  
3 stated that they contacted Ms. Donna Peay and resolved her complaint.

4 9. On March 6, 2006, Soma Financial provided the Department with a ledger sheet  
5 disclosing the number of mortgage loan applications involving Arizona real property that were  
6 received by Soma Financial since the company's license was closed by the Department on May 2,  
7 2005. The ledger discloses 126 borrowers who received multiple mortgage loans from May 2, 2005  
8 through February 24, 2006 and includes the loan amounts that were approved.

9 10. The dates on the loan documentation in the consumer complaint filed against Soma  
10 Financial by Mrs. Peay reveal that Soma Financial's loans were recorded with the Maricopa County  
11 Recorder.

12 11. Soma Financial's web site is currently active and available to Arizona residents.

13 12. Based upon the above findings, the Department issued and served upon Soma  
14 Financial and Mr. Amos an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent  
15 to Entry of Order ("Cease and Desist Order") on March 22, 2006.

16 13. On March 28, 2006, Petitioners filed a Request For Hearing to appeal the Cease and  
17 Desist Order.

### 18 CONCLUSIONS OF LAW

19 1. Pursuant to A.R.S. § 6-941, *et seq.*, the Superintendent of Financial Institutions  
20 ("Superintendent") has the authority and duty to regulate all persons engaged in the mortgage banker  
21 business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.

22 2. By the conduct set forth above, Soma Financial and Mr. Amos have violated the  
23 following:

- 24 a. A.R.S. § 6-943(A) for acting in the capacity of a mortgage banker in this State  
25 without being licensed by the Superintendent; and  
26 ...

1           b.     A.R.S. §§ 6-944(C) and (D) for failing to prominently display a current  
2                     mortgage banker license, failing to maintain a principal place of business in  
3                     this State, and failing to designate a responsible individual to manage its  
4                     operation.

5           3.     The violations set forth above constitute grounds for the issuance of an order  
6     directing Petitioners to cease and desist from the violative conduct and to take the appropriate  
7     affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct  
8     the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S.  
9     § 6-137.

10          4.     The violations set forth above constitute grounds for the imposition of a civil penalty  
11     of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to  
12     A.R.S. § 6-132.

13                                     **ORDER**

14          1.     Soma Financial and Mr. Amos shall immediately stop the violations set forth in the  
15     Findings of Fact and Conclusions of Law. Soma Financial and Mr. Amos shall immediately cease  
16     all mortgage banker business in Arizona until such time as Soma Financial or Mr. Amos have  
17     obtained a mortgage banker license from the Superintendent as prescribed by A. R. S. § 6-943.

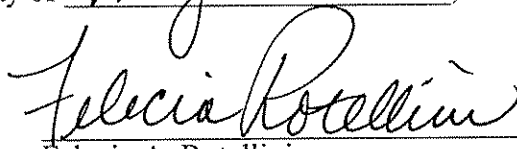
18          2.     Soma Financial and Mr. Amos shall immediately pay to the Department a civil  
19     money penalty in the amount of thirty thousand dollars (\$30,000.00). Soma Financial and Mr. Amos  
20     are jointly and severally liable for payment of the civil money penalty.

21          3.     The provisions of this Order shall be binding upon Soma Financial, Mr. Amos, their  
22     employees, agents, and other persons participating in the conduct of the affairs of Soma Financial.

23          4.     This Order shall become effective upon service, and shall remain effective and  
24     enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,  
25     or set aside.

26     ...

1 SO ORDERED this 15th day of May, 2006.

2  
3 

4 Felecia A. Rotellini  
Superintendent of Financial Institutions

5 **CONSENT TO ENTRY OF ORDER**

6 1. Petitioners acknowledge that they have been served with a copy of the foregoing  
7 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the  
8 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

9 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the  
10 foregoing Findings of Fact, Conclusions of Law, and Order.

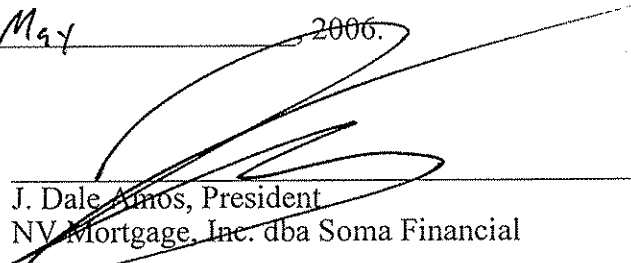
11 3. Petitioners agree to cease from engaging in the violative conduct set forth in the  
12 Findings of Fact above.

13 4. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent  
14 is solely to settle this matter and does not preclude this Department, any other agency or officer of  
15 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in  
16 the future.

17 5. J. Dale Amos, on behalf of NV Mortgage, Inc. dba Soma Financial, and himself,  
18 represents that he is the President, and that as such has been authorized by NV Mortgage, Inc. dba  
19 Soma Financial to consent to the entry of this Order on its behalf.

20 6. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest  
21 the validity of the Notice of Hearing.

22 DATED this 11 day of May, 2006.

23  
24   
25 J. Dale Amos, President  
NV Mortgage, Inc. dba Soma Financial  
26 ...

1 ORIGINAL of the foregoing filed this 16<sup>th</sup>  
2 day of May, 2006, in the office of:

3 Felecia A. Rotellini  
4 Superintendent of Financial Institutions  
5 Arizona Department of Financial Institutions  
6 ATTN: June Beckwith  
7 2910 N. 44th Street, Suite 310  
8 Phoenix, AZ 85018

9 COPY mailed same date to:

10 Lewis D. Kowal  
11 Administrative Law Judge  
12 Office of the Administrative Hearings  
13 1400 West Washington, Suite 101  
14 Phoenix, AZ 85007

15 Craig A. Raby  
16 Assistant Attorney General  
17 Office of the Attorney General  
18 1275 West Washington  
19 Phoenix, AZ 85007

20 Richard Fergus, Manager  
21 Richard Traveler, Senior Examiner  
22 Arizona Department of Financial Institutions  
23 2910 N. 44th Street, Suite 310  
24 Phoenix, AZ 85018

25 AND COPY MAILED SAME DATE by  
26 Certified Mail, Return Receipt Requested, to:

J. Dale Amos, President  
NV Mortgage, Inc. dba Soma Financial  
871 Coronado Center Drive, #110  
Henderson, NV 89052

Tory S. Teunis, COO  
NV Mortgage, Inc. dba Soma Financial  
871 Coronado Center Drive, #110  
Henderson, NV 89052

24 June Beckwith  
25 958220; CPA06-125  
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